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IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF WYOMING

PERRY STUDY, Plaintiff, vs. PEABODY INVESTMENTS CORP. AND AFFILIATES WELFARE BENEFIT PLAN, and LINCOLN FINANCIAL GROUP, d/b/a LIBERTY LIFE ASSURANCE COMPANY OF BOSTON, Defendants.	)	CIVIL NO. 19-CV-211-SWS

COMPLAINT

Plaintiff Perry Study, by and through his attorney, Jessica Rutzick, of record, and for his claims for relief against the Defendants named above, alleges and states as follows:

PARTIES TO THE ACTION

1. Plaintiff is a resident of Gillette, Wyoming and at all times relevant hereto was eligible for disability insurance coverage through his employment with Peabody Energy, Inc.

2. Defendant Peabody Investments Corp. and Affiliates Welfare Benefit Plan is the Plan through which Plaintiff's disability benefits were offered. The Plan sponsor is Peabody Investments Corp. with its principal place of business in St. Louis, Missouri.

3. Defendant Lincoln Financial Group, d/b/a Liberty Life Assurance Company of Boston is the Plan Administrator with its principal place of business in London, Kentucky.

JURISDICTION AND VENUE

4. This court has jurisdiction over the claims asserted by the Plaintiff pursuant to 29 U.S.C. §1132(e)(1).

5. Because the Peabody Energy employee benefit plan was administered in Wyoming and the breach of that plan took place in Wyoming, venue in this court is proper under 29 U.S.C. §1132(e)(2).

STATEMENT OF FACTS

6. Plaintiff was insured under a group disability insurance policy through his employment with Peabody Energy at its Gillette, Wyoming location.

7. The disability insurance plan is called the Peabody Investments Corp. and Affiliates Welfare Benefit Plan, (hereinafter, "the Plan").

8. At all times relevant hereto, the Plan was administered by Defendant Liberty Life Assurance Company of Boston, (hereinafter, "Liberty Life").

9. On or around October 2014 Plaintiff submitted a claim to Liberty Life for long term disability benefits relating to a head injury he suffered at work.

10. On March 6, 2015 Liberty Life determined that long term disability benefits were payable to Plaintiff effective November 11, 2014.

11. Plaintiff's gross monthly benefit was $3,430.96 subject to a reduction in the amount of Social Security Disability benefits Plaintiff may receive.

12. Plaintiff continued to receive long term disability benefits, reduced by Social Security Disability payments and Wyoming Worker's Compensation benefits through November 10, 2016.

13. In correspondence dated October 30, 2016 Liberty Life advised Plaintiff that his long term disability benefits were paid "through the maximum allowed period." Liberty Life closed Plaintiff's claim for long term disability benefits effective November 10, 2016.

14. The Summary Plan Description (hereinafter, "SPD"), sets forth written notice requirements if a claim is denied. Specifically, the Summary Plan Description requires Liberty Life to provide the following information:

a. The specific reasons or reasons for the denial;
b. A reference to the specific plan provision on which the denial is base
c. A description of any additional material or information necessary to complete the claim and an explanation of why such material is necessary
d. The right to submit written comments and have them considered
e. The right to review, on request and free of charge, relevant documents and other information
f. The right to file suit under ERISA if the claim is denied on appeal
g. If an internal rule, guideline, protocol or other similar criterion was relied on in denying a claim:
    i. A description of the rule, guideline protocol or criterion relied on, or
    ii. A statement that a copy of the rule, guideline, protocol or criterion will be provided free of charge upon request. [Exhibit 3, p. 12].

15. Liberty Life's October 30, 2016 correspondence did not contain the notices set forth in the Summary Plan Description.

16. Liberty Life's October 30, 2016 correspondence did not contain the regulatory notice of Plaintiff's right to file an administrative appeal in compliance with C.F.R. 2560.503-1(g)(1). The correspondence did not refer to the specific plan provision on which the adverse

determination was made or a description of the Plan's review procedures and the time limits applicable to such procedures. The correspondence did not include a statement of Plaintiff's right to bring a civil action section 502(a) of ERISA. [Exhibit 1].

17. Plaintiff is disabled with a brain injury and reasonably believed that his disability benefits were limited to 24 months, as asserted by Liberty Life in the October 30, 2016 correspondence.

18. The letter's lack of notice regarding the right to appeal further obscured remedies available to Plaintiff.

19. The notice requirements in the SPD apply to claim denials, not claim terminations, which also obfuscated notice of Plaintiff's right to appeal the termination of his benefits.

20. The deficient correspondence prevented Plaintiff from pursuing an appeal within 180 days of October 30, 2016 notice of termination of benefits.

21. The SPD does not provide for appeals of termination of benefits and thereby thwarted Plaintiff from pursuing an appeal within 180 days of the notice of termination.

22. Thus, the SPD and the termination letter denied Plaintiff a fair and reasonable opportunity to pursue his claim through the Plan's internal review process.

23. The administrative remedy in the SPD is inadequate.

24. Exhaustion of Plaintiff's administrative remedies is deemed satisfied because the Liberty Life and the SPD failed to establish or follow claim procedures consistent with the requirements of ERISA.

25. In a letter dated August 5, 2019 to Liberty Life, Plaintiff appealed the determination to terminate his long term disability benefits and requested back-due benefits less

social security and worker's compensation benefits that had previously been paid. Plaintiff also requested that Liberty Life pay ongoing long term disability benefits until Plaintiff reaches age 65 in December 2020.

26. In correspondence dated August 23, 2019, Liberty Life asserted that the Plan only offers disability benefits for up to 24 months. Liberty Life cited purported Plan Document language. [Exhibit 2]. This limitation of benefits to 24 months conflicts with the language of the Summary Plan Description.

27. Upon request for the Plan Document, Plaintiff was provided with the Summary Plan Description. [Exhibit 3]. Peabody Energy advised they did not have the Plan Document, only the Summary Plan Description.

28. Upon request to Liberty Life for the Plan Document, Liberty Life advised that Liberty Life administers the Plan, but "the Plan Document is written and housed by Peabody Energy."

29. The Summary Plan Description states in pertinent part:

> After the first 24 months of Disability (including the 180-day LTD elimination period): After you have received Disability benefits for 24 months, your condition will be reevaluated; you will continue to be considered Disabled if:
>
> > You are unable to perform, with reasonable continuity, the material and substantial duties of Any Occupation, or
> >
> > You are employed by any employer, but your Disability prevents you from earning 60% or more of your pre-Disability Base Pay. [Exhibit 3, p. 5].

30. The Summary Plan Description provides that if a claimant is 61 or younger, the long term disability maximum benefit period is "60 months or until age 65, whichever is greater." [Exhibit 3, p. 6].

31. In correspondence to Liberty Life dated September 9, 2019, Plaintiff submitted a copy of the Summary Plan Description and asked Liberty Life to reopen Plaintiff's claim immediately as he is disabled under the "any occupation" definition of disability in the Summary Plan Description.

32. As of the date of filing this Complaint, Liberty Life has not responded to Plaintiff's September 9, 2019 correspondence.

FIRST CLAIM FOR RELIEF
BREACH OF FIDUCIARY DUTY AS AGAINST LIBERTY LIFE

33. Plaintiff re-alleges and incorporates herein by reference paragraphs 1 through 30 above as if fully set forth herein.

34. Liberty Life exercises discretionary authority and control respecting the administration of the Plan.

35. Defendant Liberty Life is a fiduciary with respect to the Plan.

36. As a fiduciary, Liberty Life shall discharge its fiduciary duties to the Plaintiff as set forth in 29 U.S.C. §1104 (Fiduciary Duties) as follows:

> **(a) Prudent man standard of care**
>
> (1) Subject to sections 1103(c) and (d), 1342, and 1344 of this title, a fiduciary shall discharge his duties with respect to a plan solely in the interest of the participants and beneficiaries and –
>
> (A) for the exclusive purpose of:
> (i) providing benefits to participants and their beneficiaries; and
> (ii) defraying reasonable expenses of administering the plan;
>
> (B) with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims;
> ***

> (D) in accordance with the documents and instruments governing the plan insofar as such documents and instruments are consistent with the provisions of this subchapter and subchapter III.

37. Liberty Life breached its fiduciary duty to the Plaintiff by failing to administer the Plan with the care, skill, prudence and diligence under the circumstances that a prudent man acting in like capacity would use.

38. Liberty Life breach it fiduciary duty to the Plaintiff by failing to administer the Plan in accordance with the Summary Plan Description provisions.

39. Plaintiff claims an equitable remedy as provided for under ERISA and as established at trial.

SECOND CAUSE OF ACTION
PLAN BENEFITS

40. Plaintiff re-alleges and incorporates herein by reference paragraphs 1 through 39 above as if fully set forth herein.

41. The decision to terminate Plaintiff's disability benefits was in contravention of the plain language of the Summary Plan Description and therefore arbitrary and capricious.

42. Plaintiff seeks appropriate equitable relief as established at trial.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiff prays for judgment against Defendants for all benefits due the Plaintiff under his disability insurance policy, including interest and costs as allowed by law, reasonable attorney's fees as provided under 29 U.S.C. §1132(g)(1), all damages recoverable for breach of fiduciary duty under 29 U.S.C. § 1109(a), as set forth above, and all other damages and remedies allowable under 29 U.S.C. §1001 *et. seq.,* in accordance with the allegations of this Complaint.

DATED this 8th day of October, 2019.

RESPECTFULLY SUBMITTED,

PERRY STUDY,
PLAINTIFF

BY: _____

Jessica Rutzick
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Post Office Box 1867
Wilson, WY 83014
Telephone: (307) 733-8140
jrutzick@rutzicklaw.com

Exhibit 1

000018
LIBERTY LIFE ASSURANCE COMPANY OF BOSTON
GROUP BENEFITS DISABILITY CLAIMS
P.O. BOX 7207
LONDON, KY 40742-7207

MR. PERRY STUDY
PO BOX 1074
GILLETTE WY 82717

40000001000200000100018018

Liberty Life Assurance Company of Boston
Group Benefits Disability Claims
P.O. Box 7207
London, KY 40742-7207
Phone No.: (800) 291-0112
Secure Fax No.: (603) 430-5732

October 30, 2016

Mr. Perry E. Study
PO BOX 1074
GILLETTE, WY 82717

RE: Long Term Disability (LTD) Benefits
Peabody Investments Corp.
Claim #: 5070354

Dear Mr. Perry Study:

Liberty Life Assurance Company of Boston ("Liberty") is responsible for managing claims for Long Term Disability (LTD) benefits under Peabody Investments Corp.'s Group Disability Plan. We are writing in reference to your claim for LTD benefits under the Plan.

The Plan under which you are covered contains the following contractual provision regarding your maximum benefit period:

> You have received the maximum benefits that you qualify for, because you have reached any of the following limits:
>
> The 180-day STD benefit period ends. LTD benefits may begin the following day.
> You have received LTD benefits for the maximum of 24 months.

Your benefits began on November 11, 2014; thus, you will have reached your maximum benefit period on November 10, 2016. Since we have approved benefits through the maximum allowed period, we are closing your claim.

Any pending application(s) for benefits that are considered an offset under the Plan continue to be applicable to your claim. If benefits are awarded retroactive to your period of disability with Liberty, you are expected to repay the amount of any other benefit you would have received during the time period that you received disability per the language of the Plan. Should Liberty receive notification of any such award, a representative from our Financial Review Services will notify you regarding any repayment due.

If you have any questions regarding this matter, please contact me.

Sincerely,

Christopher Le Grand
Long Term Disability Case Manager
Phone No.: (800) 291-0112 Ext. 13918
Secure Fax No.: (603) 430-5732

Exhibit 2

Liberty Life Assurance Company of Boston
Group Benefits Disability Claims
P.O. Box 7207
London, KY 40742-7207
Phone No.: (800) 291-0112
Secure Fax No.: (603) 334-9075

August 23, 2019

Jessica Rutzick & Associates
1685 NORTH PASS RANCH RD
PO BOX 1867
WILSON, WY 83014

RE: Long Term Disability (LTD) Benefits
Peabody Investments Corp.
Claim #: 5070354
Claimant: Perry Study

To Whom It May Concern:

This letter is in response to the below document from Jessica Rutzick & Associates. Based on the LTD Plan with Peabody Investments Corp. and Affiliates, Mr. Perry Study has a maximum benefit date that he can receive disability benefits. This maximum benefit date is 24 months after 180 calendar days of approved STD. Mr. Perry Study's disability date was May 15, 2014, and the LTD benefits began on November 11, 2014. Thus, he was paid from and is eligible for LTD benefits from November 11, 2014 through November 10, 2016. Then plan does not have an Any Occupation policy.

Please see the Plan information below:

When LTD Benefits Are Paid and the Benefit Amount

If you are still Disabled after 180 calendar days of approved STD, you may be eligible for LTD benefits. If approved, your LTD benefit will begin on the 181st calendar day of your approved Disability and will be paid on a monthly basis for up to 24 months.

Your monthly LTD pay is calculated by multiplying your hourly rate by 2,080 to determine your annual pay. Then, your monthly pay is calculated by dividing your annual pay by 12 months. Finally, your monthly LTD pay is calculated by multiplying your monthly pay by the LTD benefit of 60%. Your monthly benefit will be reduced by any additional benefits you receive, as described in "Coordinating LTD Benefits with Other Benefits and Income."

Your LTD benefits may continue for up to 24 months as long as you're approved Disability continues during the 24-month period. Your benefits will stop if you are no longer Disabled. Benefits also will stop if you end your employment with the Company (see "When Payment of LTD Benefits Ends").

If you have any questions regarding this matter, please contact his assigned Disability Case Manager at the number below.

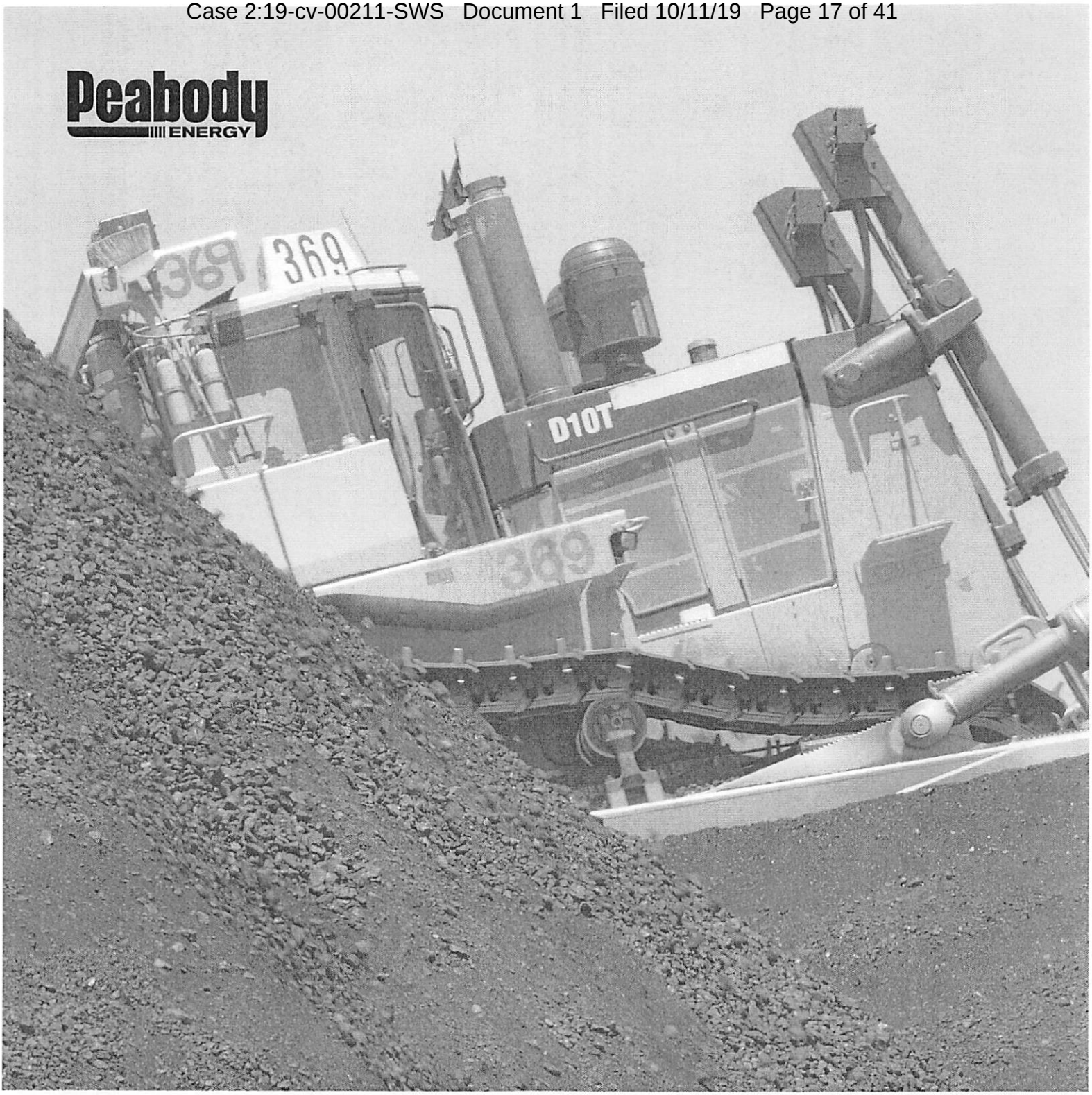
Sincerely,

Khya McCrorey
Claims Examiner
On Behalf Of: Brett Thomas
Phone No.: (800) 291-0112 Ext. 13907
Secure Fax No.: (603) 334-9075

Attachments: 5070354-APPEAL-ATTORNEY DOCUMENTS-08.12.2019

Exhibit 3

Peabody ENERGY



DISABILITY BENEFITS

SUMMARY PLAN DESCRIPTION | JANUARY 2013

WYOMING EMPLOYEES

SUMMARY PLAN DESCRIPTION

Peabody Investments Corp. and Affiliates Welfare Benefit Plan

Disability Benefits
for Employees in Wyoming

January 2013

This booklet is a summary plan description (SPD) and the legal plan document for the Disability plan of the Peabody Investments Corp. and Affiliates Welfare Benefit Plan (the "plan"), effective as of January 1, 2013, for eligible Employees in Wyoming. A list of participating employers may be obtained on written request to the plan administrator and may be examined at the principal office of the plan administrator and other work sites. This document supersedes any booklets previously issued to you.

Eligibility for benefits and the actual amount of benefit payments are determined by the plan document and the laws that govern the plan. The plan administrator, Peabody Investments Corp. (the "Company"), maintains the right to interpret the terms of this plan, and its interpretations will be final.

The Company intends to maintain this plan for eligible Employees but reserves the right to change or end the plan at any time, for any reason and without advance notice. This booklet is not a guarantee of employment or an employment contract.

Employees who speak a language other than English may contact the local human resources office to request help with translating the contents of this SPD.

Contents

Contents *(continued)*

Disability Benefits Highlights

The following Company-provided Short-Term Disability (STD) and Long-Term Disability (LTD) benefits are available to eligible Employees who are unable to work because of an illness or injury:

	SHORT-TERM DISABILITY (STD) BENEFITS	LONG-TERM DISABILITY (LTD) BENEFITS
When Your Coverage Begins	Automatically on your first day of work	Automatically on your first day of work
Your Cost	None	None
When Benefit Payments Begin	On the 11th consecutive calendar day of an approved Disability leave	After you have been on an approved Disability leave for 180 calendar days and have exhausted all STD benefits*
Benefit You Receive	• If you are an Employee with 5 or more years of service, you receive 100% of Base Pay for up to 170 days • If you are an Employee with fewer than 5 years of service, you receive: – 100% of Base Pay for up to 30 days and then – 70% of Base Pay for up to 140 days	60% of your Base Pay for as long as your approved Disability continues, up to age 65 (or longer depending on when your Disability begins) or until you retire, whichever is earlier

*Once you have exhausted all of your STD benefits, the 180-day waiting period for LTD benefits is retroactive and begins on your first day of Disability leave. This 180-day waiting period includes any and all previous 10-day waiting periods and the periods during which you receive STD benefits.

QUALIFYING FOR STD BENEFITS: To qualify for STD benefits, you must be Totally Disabled and absent from work for a waiting period of 10 consecutive calendar days for each unrelated period of absence. Benefits will begin on the 11th consecutive calendar day of an absence, provided that the third-party administrator, Liberty Mutual, in its sole discretion, determines that you are Totally Disabled. The attending physician must provide evidence to Liberty Mutual to validate a Disability claim.

IF YOU BECOME DISABLED AGAIN AFTER AN STD ABSENCE: If you become Disabled again within 180 calendar days from your last STD absence, the following special rules apply:

- All STD absences (including any waiting periods) separated by fewer than 180 calendar days will be added together to determine when you have exhausted your STD benefit.
- If your absence is due to the same or a related condition, you will not be required to satisfy a new 10-calendar-day waiting period. However, you are required to notify Liberty Mutual within 24 hours of your recurrence.
- An additional waiting period of 10 calendar days must be satisfied for each unrelated STD claim that is separated by less than 180 calendar days.
- STD absences separated by 180 or more calendar days will be considered "new" Disabilities, not recurrences.

IF YOU EXHAUST YOUR STD BENEFIT: If you exhaust your 180-day STD benefit and are still Disabled and unable to work, or you become Disabled again within 180 calendar days of returning to work, you will be eligible to apply for Long-Term Disability (LTD) benefits. You will receive benefits only if Liberty Mutual, in its sole discretion, determines that you are Disabled and eligible under the plan.

Eligibility

You are eligible for coverage under this plan if you are classified by a participating employer as a full-time Employee below Director level working 35 or more hours per week in Wyoming. A list of participating employers may be obtained on written request to the plan administrator and may be examined at the principal office of the plan administrator and other work sites. The definition of Employee includes any Employee while on vacation.

You are not eligible for coverage under this plan if you are a part-time, contractual, temporary or seasonal Employee; an Employee of another affiliate on temporary assignment to the Wyoming region; an Employee who is covered by a collective bargaining agreement that does not provide for your participation in the plan; or a nonresident alien who receives no U.S.-source income from the Company, as defined by the Internal Revenue Code. In addition, if you are receiving severance or you are on an unpaid leave of absence (except for certain unpaid leave under the Family and Medical Leave Act), you are not eligible for coverage under this plan.

If eligible, you are automatically enrolled for coverage on the first day that you are actively at work. The Company currently pays the full cost of this coverage for you.

If you are not actively at work on your scheduled first day of employment, your coverage becomes effective on the date you start to work on a full-time basis.

Short-Term Disability Benefits

To qualify for Short-Term Disability (STD) benefits, you must meet all of the following criteria:

- You must have been Totally Disabled and unable to work for 10 consecutive calendar days due to an illness or injury.
- You must be following a continuous course of Reasonable and Appropriate Medical Treatment under the care of a Legally Qualified Physician.
- You must, on request, provide objective medical evidence to support continuation of your Disability claim.
- You or your representative must file a claim with Liberty Mutual to request STD benefits and complete all required documentation within 10 calendar days from the original date of the Disability. Failure to do so may result in a delay, interruption or termination of STD benefit payments. (See "How to File a Claim.")
- Your condition must meet the definition of "Disability," as determined by Liberty Mutual and set out below.

Liberty Mutual Definition of "Disability"
For purposes of the STD plan, "Disabled" or "Disability" means that, as a result of injury or illness, you are unable to perform the material and substantial duties of your Own Job. You are not considered to have a Disability if your illness or injury only prevents you from commuting to and from work.

During your Disability, you must maintain contact with your supervisor, as he or she has directed. Your supervisor will require a treating physician's release authorizing your return to work and, if appropriate, return-to-work health and drug/alcohol screenings.

Amount and Duration of STD Benefits

The amount of your STD benefits depends on your years of service with the Company.

- **If you have *five or more years of service* as of the original date of the Disability and meet all qualifying criteria (listed above),** you receive STD benefits equal to 100% of your Base Pay for up to 170 calendar days of Disability (after the 10-calendar-day waiting period, during which you receive no STD benefits).
- **If you have *fewer than five years of service* as of the original date of the Disability and meet all qualifying criteria (listed above),** you receive STD benefits equal to 100% of your Base Pay for the first 30 calendar days of Disability (after the 10-calendar-day waiting period, during which you receive no STD benefits). Then, you receive 70% of your Base Pay for up to 140 calendar days of Disability.

  Note: Additional waiting periods may apply, for example, if there are delays in receiving documentation of your Disability.

The maximum period for which you may receive STD benefits, if your claim is approved by Liberty Mutual, is 180 calendar days, which begins retroactively to the first day of your Disability. In other words, this 180-day period includes all calendar days from that date, including:

- The initial 10-calendar-day waiting period of your Disability
- Any other waiting periods
- Any holidays

Important Note on the Maximum Duration of STD Benefits
Once you are absent from work due to a Disability, any change in your current Disability or the onset of a new Disability during this absence *does not* extend the maximum duration of STD benefits. In addition, the maximum 180-day period of STD benefits cannot be extended by substituting another type of absence (for example, vacation or jury duty).

How Approved STD Claims Are Paid

Your payments for STD benefits will be made through the Company's payroll, on your regular payroll cycle. If there is a delay in providing the necessary claim information or objective medical evidence to Liberty Mutual for claim approval or extension of benefits, the benefit payment will be made on the next normal payroll cycle following the approval, provided that Liberty Mutual approves your claim.

You are not entitled to overpayments. If the plan overpays you for any reason, the plan has the right to recover the overpayment.

Important Tax Note
Your pay for STD benefits is considered *taxable income* and is subject to applicable federal and state withholdings. Any payroll deductions that you have authorized, along with deductions required by law, will also be applied.

When Payment of STD Benefits Ends

Payment of your Short-Term Disability benefits will end on the date that any of the following occurs:

- You stop being considered Disabled by the plan for any of the following reasons:
  - You recover.
  - You return to full-time employment in your Own Job.
  - Your condition no longer meets the plan's definition of Disability.
  - You fail to provide proof of your Disability, objective medical evidence or other information when requested by Liberty Mutual, or you otherwise fail to cooperate with Liberty Mutual.
  - You stop receiving continuous Reasonable and Appropriate Medical Treatment for your Disability, as determined by Liberty Mutual.
- You refuse to cooperate in any of the following ways:
  - Liberty Mutual determines that you refused to cooperate in any manner with Liberty Mutual case management or any other internal or external representative or groups directed by the Company to manage STD cases or claims, including refusal to cooperate when referred for an independent medical or rehabilitation evaluation.
  - You fail to maintain required contact with your supervisor, as directed, during Disability leave.
- You reach one of the following dates and are therefore no longer eligible to receive payment of Disability benefits under the provisions of the plan:
  - The day before you retire
  - The day you are terminated or resign
  - The day before you are incarcerated

- The day you are convicted of a felony
- The day you die
- The last day of the 180-calendar-day period that is the maximum period for receiving STD benefits. (If approved by Liberty Mutual, Long-Term Disability benefits may begin the following day.)

Additional details may be provided in other sections of this summary plan description.

When STD Coverage Ends

Your STD coverage under the plan will end on the date that any of the following occurs:

- You die.
- You no longer meet the definition of Employee (due, for example, to your discharge, retirement or resignation, or a reduction in the work force).
- You are to be incarcerated the following day.
- The plan is terminated.

Transitional Return to Work

"Transitional Return to Work" refers to a temporary accommodation lasting no more than eight calendar weeks that is made to assist your return to work with the Company after you have experienced a Short-Term Disability. It is a temporary modification of any job, task, function or combination of tasks and functions that you may perform safely, with work restrictions, without risk of re-injury.

Your Responsibility to Meet Company Standards
As with any work assignment, during a transitional work assignment you will be expected to comply with all Company standards and expectations including, but not limited to, safety, quality, conduct and job performance.

Your employer may make transitional work available to you on the following conditions:

- An acceptable work schedule
- The nature of the restrictions placed on you
- The availability of appropriate work

Your participation and cooperation in the Transitional Return to Work program are mandatory if you are identified as a suitable candidate. You may be considered a candidate to participate in the program if you are receiving STD benefits and meet one or more of the following criteria:

- Your physician has certified that you are temporarily Disabled.
- Your physician has provided a restricted return-to-work release that indicates possible full-duty release within eight weeks.
- Your employer and Liberty Mutual have determined that you are a possible candidate for program participation.

You will not be able to participate in the program, however, in the event of any of the following:

- You have an open workers' compensation claim.
- You have elected to receive retirement benefits provided by the Company during the course of your approved STD claim.
- Your position has been eliminated due to business necessity.

Important Note About Compliance with All Laws
The Company will always comply with all state and federal laws, including the Americans with Disabilities Act, to determine if an Employee is able to do his or her Own Job with or without reasonable accommodation.

Coordinating STD Benefits with Other Benefits

Your benefit payment under the STD plan will be reduced by the amount of any other benefit payments that you qualify for, regardless of whether such other benefits are actually paid to you. Sources of such benefits include, but are not limited to:

- Amounts available under any workers' compensation or occupational disease law, the federal Coal Mine Health and Safety Act of 1969 as amended, or employer-liability and similar laws. This includes permanent Disability payments for a current or prior injury.
- Any Social Security benefit (both primary and dependents) available under the federal Social Security Act or any other national, state or municipal law that provides similar benefits. However, your STD benefits will not be affected by any cost-of-living increases in your Social Security benefits that become effective after your STD benefit payments begin.

Exclusions and Limitations

The STD plan *does not* cover Disabilities resulting from any of the following:

- An intentionally self-inflicted injury, regardless of whether you are judged sane or insane
- Working for another employer or self-employment in any gainful occupation
- The commission or attempted commission of a felony
- Participation in a riot, insurrection or rebellion
- An act of war, whether declared or undeclared
- An illness or injury for which you are not following a continuous course of Reasonable and Appropriate Medical Treatment under the care of a Legally Qualified Physician

Timely Reporting of Your Disability
The plan will not pay benefits retroactively if you do not report your Disability to Liberty Mutual within 30 days of the date the Disability begins.

If a Disability Recurs After You Return to Work

If your Disability recurs after you return to work, different rules apply depending on the timing of the recurrence.

- **If you become Totally Disabled again *within 180 consecutive calendar days* from your last STD absence:**
  - All STD absences (including any waiting periods) separated by fewer than 180 calendar days will be added together to determine when you have exhausted your STD benefit.
  - If your absence is due to the same or a related condition, you will not be required to satisfy a new 10-calendar-day waiting period. However, you are required to notify Liberty Mutual within 24 hours of your recurrence.
  - An additional waiting period of 10 calendar days must be satisfied for each unrelated STD claim separated by less than 180 calendar days.

  Remember, once STD payments begin, all calendar days, including any waiting periods and holidays, are included in the maximum period of benefit eligibility (a total of 180 calendar days).

  If you exhaust your 180-day STD benefit and are still Totally Disabled and unable to work, you may be eligible for Long-Term Disability (LTD) benefits.
- **If you return to work for a period *longer than 180 consecutive calendar days* and then become Totally Disabled again:**
  - Your Disability is considered a "new" Disability regardless of whether it is due to the same or a related condition.
  - If Liberty Mutual determines that your condition meets the plan's definition of Disability and that you therefore are eligible for Disability benefits, your STD benefits begin again on the 11th consecutive calendar day of your new period of Disability.

Long-Term Disability Benefits

To qualify for Long-Term Disability (LTD) benefits, you must meet all of the following criteria:

- You must be following a continuous course of Reasonable and Appropriate Medical Treatment under the care of a Legally Qualified Physician.
- You must, on request, provide objective medical evidence to support continuation of your Disability claim.
- You must have been Disabled for 180 calendar days and been approved for STD benefits by Liberty Mutual. This 180-day waiting period for LTD benefits is called the "LTD elimination period."
- Your condition must meet the definition of Disability, as determined by Liberty Mutual.

The term "Disability" has the following two definitions under the LTD plan:

- **After the 180-day LTD elimination period and for the next 18 months of Disability:** For purposes of the LTD plan, you have a Disability if:
  - As a result of injury or illness, you are unable to perform the essential duties of your Own Occupation, or
  - Your Disability prevents you from earning 60% or more of your pre-Disability Base Pay.
- **After the first 24 months of Disability (including the 180-day LTD elimination period):** After you have received Disability benefits for 24 months, your condition will be reevaluated; you will continue to be considered Disabled if:
  - You are unable to perform, with reasonable continuity, the material and substantial duties of Any Occupation, or
  - You are employed by any employer, but your Disability prevents you from earning 60% or more of your pre-Disability Base Pay.

Pre-existing Medical Conditions

The plan will not pay LTD benefits for a Disability that begins during the first 12 months of coverage if it is related to a pre-existing medical condition. After 12 months of continuous full-time employment, Employees with pre-existing conditions are eligible for LTD coverage under this plan for those pre-existing conditions.

What Is a "Pre-existing Medical Condition"?
A condition will be considered pre-existing if you received any treatment, consultation or prescription drugs for the condition during the 12 months immediately before the effective date of your LTD coverage.

Note: If you have returned to active employment after receiving LTD benefits, Liberty Mutual will use your original date of hire to determine whether the pre-existing provision applies.

When LTD Benefits Are Paid

If you are still Disabled after 180 calendar days of approved STD, you may be eligible for LTD benefits. If approved, your LTD benefit will begin on the 181st calendar day of your approved Disability and be paid on a monthly basis.

Your LTD benefit provides 60% of the first $10,000 of your monthly Base Pay and is therefore subject to a $6,000 monthly maximum. Your monthly benefit will be reduced by any additional benefits you receive, as described in "Coordinating LTD Benefits with Other Benefits and Income."

Depending on your age when your approved Disability begins, the maximum benefit periods are shown in the table on the next page.

YOUR AGE WHEN YOU BECOME DISABLED	LTD MAXIMUM BENEFIT PERIOD
61 or younger	60 months or until age 65, whichever is greater
62	42 months
63	36 months
64	30 months
65	24 months
66	21 months
67	18 months
68	15 months
69 or older	12 months

Benefits will stop if you are no longer Disabled. Benefits also will end if you choose to take early or normal retirement benefits under the Company's pension plan. (See "When Payment of LTD Benefits Ends.")

How LTD Benefits Are Paid

LTD benefits will be paid at the end of each calendar month that you are Disabled. If you are Disabled for less than a full month, you will receive a prorated monthly benefit for each day of Disability.

Important Tax Note
Your pay for LTD benefits is considered *taxable income* and is subject to applicable federal and state withholdings. Any payroll deductions that you have authorized, along with deductions required by law, will also be applied. The amount of your LTD benefit also will be reduced by any additional benefits that you receive, as described in "Coordinating LTD Benefits with Other Benefits and Income."

Liberty Mutual will pay all benefits directly to you. You may choose to have your payments placed directly into your bank account through direct deposit. If your Disability prevents you from taking care of your own affairs, the plan may send payments in your name to the legally authorized representative that the Claims Administrator determines has legal responsibility for your financial affairs. If you die, any unpaid LTD benefits for the Disability period before your death will be paid to your estate.

If an overpayment exists because your benefits, at the time they were paid, were not sufficiently reduced, as described in "Coordinating LTD Benefits with Other Benefits and Income," Liberty Mutual will recalculate the claim and inform you of its findings. Any overpayment will become repayable by you immediately on request. Your LTD payments may be suspended or reduced by any amount of overpayment if you do not reimburse the overpayment on request.

When Payment of LTD Benefits Ends

Payment of your Long-Term Disability benefits will end on the date that any of the following occurs:

- You stop being considered Disabled by the plan for any of the following reasons:
  - You recover.
  - You return to gainful employment earning 60% or more of your pre-Disability Base Pay.*

    *Because earnings may fluctuate, your earnings will be averaged over three consecutive months rather than benefits being immediately terminated once you have earned 60% of your pre-Disability Base Pay.
  - Your condition no longer meets the plan's definition of Disability.

- You fail to provide proof of your Disability, objective medical evidence or other information when requested by Liberty Mutual; or you otherwise fail to cooperate with Liberty Mutual.
- You refuse to apply for Social Security Disability as requested by Liberty Mutual.
- You stop receiving a continuous course of Reasonable and Appropriate Medical Treatment for your Disability, as determined by Liberty Mutual.

▷ You refuse to cooperate in any of the following ways:

- Liberty Mutual determines that you refuse to cooperate in any manner, including refusal to cooperate when referred for an independent medical or rehabilitation evaluation.
- You refuse to cooperate in any manner with Liberty Mutual case management or any other internal or external representative or group (such as Campbell County Memorial Hospital Case Management) directed by the Company to manage LTD cases or claims.
- You are capable of working but fail to engage in active employment.

▷ You have reached one of the following dates and are therefore no longer eligible to receive LTD benefit payments under the provisions of the plan:

- The day before you retire
- The day before you are incarcerated
- The day you are convicted of a felony
- The day you die
- The end of the maximum period for receiving LTD benefits (see "When LTD Benefits Are Paid")

Additional details may be given in other sections of this summary plan description.

When LTD Coverage Ends

Your LTD coverage under this plan will end on the date that any of the following occurs:

▷ After becoming Disabled, the date you are no longer considered Disabled as defined by the plan or otherwise are no longer entitled to benefits under the plan.

▷ You die.

▷ You are no longer an Employee due to your discharge, retirement or resignation, or a reduction in the work force

▷ You are to be incarcerated the following day.

▷ You no longer meet the eligibility requirements for coverage.

▷ The plan is terminated.

Rehabilitative Program

Once your LTD claim is approved, you may be eligible to participate in a program of rehabilitative employment and/or training. Liberty Mutual will perform an assessment to evaluate your ability to take part in such a program.

If Liberty Mutual determines, based on medical and vocational information, that you are able to return to work at least part time in Any Occupation, you will no longer be considered Totally Disabled. A Rehabilitative Program will be designed to assist in your return to employment with any employer.

You may be considered eligible to participate in a Rehabilitative Program if all of the following conditions are met:

▷ You are Disabled according to the definitions and terms of the plan.

▷ The Rehabilitative Program or plan has been established by Liberty Mutual and approved by the plan administrator.

▷ Your attending physician, an independent medical examiner and/or a vocational specialist has indicated that you can participate in a Rehabilitative Program.

During the rehabilitation period, the Company will continue to provide benefits under this plan. Your cooperation is required in order for your benefits to continue.

Your LTD benefits will be reduced by 50% of any amount you earn while participating in the Rehabilitative Program, as shown in the following example.

Consider a situation in which:

- Your monthly pre-Disability earnings are $4,000.
- You receive a $350 monthly workers' compensation benefit.
- You earn $800 per month while participating in a Rehabilitative Program.

In this situation, your monthly LTD benefit during the Rehabilitative Program would be determined as follows:

LTD monthly benefit (before reductions) = 60% x $4,000	$2,400
Minus monthly income from other sources (workers' compensation)	– $350
Monthly benefit payment from LTD plan (before reduction for rehabilitative earnings)	$2,050
Minus 50% of rehabilitative earnings (50% x $800)	– $400
Monthly LTD benefit you will receive	**$1,650**

Your Rehabilitative Program benefit will end on the date that any of the following occurs:

- Liberty Mutual determines that you are able to return to any employment for which you are qualified on either a part-time or full-time basis, with or without reasonable accommodation.
- You become employed on either a part-time or full-time basis.
- You otherwise cease to be eligible as provided under the plan.

Workforce Re-entry After the Rehabilitative Program

If Liberty Mutual determines that you are able to return to any employment with or without reasonable accommodation, Liberty Mutual will provide you with job-search assistance. At the same time, you must make an independent, concentrated effort to find employment. Once you become employed, your LTD benefit will be offset by any amount that you earn in your new position. If you do not earn at least 60% of your pre-Disability earnings, you will continue to receive a prorated benefit from the LTD plan that will bridge the gap between the amount you earn while working and the LTD benefit of 60% of your pre-Disability earnings.

Your LTD benefits will end if you are capable of employment as specified by Liberty Mutual but fail to accept or engage in active employment.

Coordinating LTD Benefits with Other Benefits and Income

Your benefit under the LTD plan will be reduced by the amount of any other benefits that you qualify for, regardless of whether such other benefits are actually paid to you. Sources of benefits include, but are not limited to, the following:

- Amounts available under any workers' compensation or occupational disease law, the federal Coal Mine Health and Safety Act of 1969 as amended, or employer-liability or similar laws. This includes permanent and/or temporary Disability payments (whether total or partial) for a current or prior injury. Any amount that is awarded or paid in a lump sum under these laws, voluntarily or involuntarily, will be deducted from your

LTD benefits beginning on the date of the award or settlement, and will continue for as many months as necessary to equal the amount of the lump sum. However, before calculating the reduction of your LTD benefit based on a lump-sum award or settlement, the LTD plan will subtract from the reduction any approved medical expenses and attorney fees that you incurred before the amount was awarded.

- Any Social Security benefit (both primary and dependents) available to you under the federal Social Security Act or any other national, state or municipal law that provides similar benefits. However, your LTD benefits will not be affected by any cost-of-living increases in your Social Security benefits that become effective after your LTD benefit payments begin.
- Amounts earned or any potential earnings that you would receive from working in either your Own Occupation or employment on a full-time or part-time basis that matches your physical and mental capabilities, as determined by Liberty Mutual. Your LTD benefits will be reduced if you are capable of working yet fail to engage in active employment.

Social Security Disability Benefits

After you have been Disabled for five months, you and your eligible dependents may be eligible to receive Social Security Disability Income (SSDI) benefits. Generally, SSDI benefits become payable if your Disability is expected to last 12 months or longer. SSDI benefits can continue for as long as you are unable to work, up to your normal Social Security retirement age.

Liberty Mutual will perform an assessment to determine whether your claim will meet the SSDI requirements and, at no cost to you, will work as an advocate to help you obtain SSDI benefits. Keep in mind that the Social Security approval process can take some time, and Liberty Mutual may ask you to make as many as two appeals. The plan advances your full Disability benefits while your Social Security claim is being processed. You may be required to apply for SSDI benefits within 12 months from your original date of Disability in order to remain eligible for LTD payments.

Liberty Mutual will reduce your Disability or partial Disability benefits by the amount of SSDI benefits that it estimates is payable to you and your dependents. However, your Disability benefits will not be reduced by the estimated amount of SSDI if all of the following four conditions are met:

- You provide satisfactory proof of application for SSDI benefits.
- You sign a reimbursement agreement under which, in part, you agree to repay Liberty Mutual for any overpayments resulting from the award or receipt of SSDI benefits.
- If applicable, you provide satisfactory proof that all appeals for SSDI benefits have been made on a timely basis to the highest administrative level unless Liberty Mutual determines that further appeals are not likely to succeed.
- If applicable, you submit satisfactory proof that SSDI benefits have been denied at the highest administrative level unless Liberty Mutual determines that further appeals are not likely to succeed.

When you start receiving SSDI benefits, certain members of your family may also qualify for such benefits based on your Social Security earnings. Each family member may be eligible for a monthly benefit that is up to 50% of your Disability rate. Benefits may be paid to your spouse, your children and/or your Disabled child. Your LTD benefits will be reduced by your total household SSDI benefit.

Once you receive your SSDI benefits, you must repay the plan for the amounts advanced to you that are now replaced by a retroactive Social Security award. The amount due is based on the effective date of the Social Security award, and the plan has the right to recover it. Liberty Mutual reserves the right to offset anticipated SSDI benefits when deemed reasonable.

Even if you qualify for SSDI benefits, Liberty Mutual may determine that your Disability does not continue to meet the definition of Disability under this plan. If this occurs, you no longer will receive Disability benefits from this plan.

Exclusions and Limitations

The plan *does not* cover Disabilities resulting from any of the following:

- The commission or attempted commission of a felony
- Participation in a riot, insurrection or rebellion

- An act of war, whether declared or undeclared
- Alcoholism, drug addiction or drug abuse, unless you are in an approved treatment program*

  *If you are in an approved treatment program deemed reasonable by Liberty Mutual, you will be eligible for benefits for a maximum period of 24 months during your lifetime. The 24-month maximum is an overall maximum that applies to all periods of Disability due to alcoholism, drug addiction or drug abuse; there is not a separate maximum for each condition. Drug abuse includes the taking of a prescription or controlled drug in a manner not prescribed by a physician.
- Mental condition or illness, unless you are in an approved treatment program*

  *If you are in an approved treatment program deemed reasonable by Liberty Mutual, you will be eligible for benefits for a maximum period of 24 months during your lifetime. The 24-month maximum is an overall maximum that applies to all periods of Disability due to any mental illness or nervous condition; there is not a separate maximum for each condition.
- An illness or injury for which you are not under the regular and continuous care of a Legally Qualified Physician

If a Disability Recurs After You Return to Work

If your Disability recurs after you return to work in a full-time capacity, different rules apply depending on the timing of the recurrence.

- **If you become Disabled again due to a related or unrelated Disability *within 180 consecutive calendar days* after your approved LTD leave ends:**
  - Your Disability is considered one period of Disability.
  - You must report your Disability to Liberty Mutual on your first day of absence from work due to the Disability.
  - If Liberty Mutual approves your Disability, your LTD benefits will resume on the first day you are absent from work due to your approved Disability. The benefit will be based on your Base Pay on the date immediately before your recurring period of Disability.
- **If you become Disabled again *after more than 180 calendar days* for any approved reason:**
  - Your Disability is considered a new period of Disability.
  - If you are eligible and if Liberty Mutual determines that your condition meets the plan's definition of Disability:
    - You will receive STD benefits beginning on the 11th consecutive calendar day of your new period of Disability.
    - If your approved Disability continues beyond the 180-calendar-day maximum period for receiving STD benefits, you will begin receiving LTD benefits, if approved.

Subrogation and Reimbursement

If your illness or injury appears to be someone else's fault, benefits otherwise payable under this plan for loss of time as a result of that illness or injury will not be paid unless you or your legal representative agrees to all of the following actions:

- To pay Liberty Mutual, on behalf of the Company, for such benefits to the extent that they are for losses for which compensation is paid to you by or on behalf of the person at fault
- To allow Liberty Mutual, on behalf of the Company, a lien of such compensation and to hold such compensation in trust for Liberty Mutual, on behalf of the Company
- To execute and give to Liberty Mutual, on behalf of the Company, any instruments needed to secure the rights above

When Liberty Mutual, on behalf of the Company, has paid benefits to or on behalf of you, Liberty Mutual, on behalf of the Company, will be subrogated to all rights of recovery that you have against the person at fault. These subrogation rights will extend only to recover the amount that Liberty Mutual, on behalf of the Company, has paid. You must execute and deliver any instruments needed and do whatever is necessary to secure those rights to Liberty Mutual, on behalf of the Company.

Right of Recovery

You are not entitled to overpayments. Liberty Mutual, on behalf of the Company, has the right to recover any overpayment of benefits caused by, but not limited to, any of the following events:

- Fraud
- Any error made by Liberty Mutual in processing a claim
- Your receipt of any other income benefits

Liberty Mutual may recover an overpayment by, but not limited to, any of the following actions:

- Requesting a lump sum payment of the overpaid amount
- Reducing any benefits payable under this plan
- Taking appropriate collection activity available as permitted by law, including legal action, to recover the amount of the overpayment from the proceeds of any other income benefits, on a periodic or lump-sum basis

Under the provisions of the Disability plan, it is required that full reimbursement be made to Liberty Mutual.

How to File a Claim

If you must be absent from work due to illness or injury, call your supervisor on the first day of your Disability or in advance if you are scheduling surgery. If your injury or illness is work-related, be sure to report this to your supervisor immediately when the work-related illness or injury occurs or as soon as you are aware of any symptoms of the illness or injury. Your Disability benefits will be coordinated with any workers' compensation benefits and the Family and Medical Leave Act of 1993 (FMLA). (See "Coordinating LTD Benefits with Other Benefits and Income.")

After contacting your supervisor, if you expect to be absent from work for more than 10 consecutive calendar days as a result of your illness or injury, you should report a claim to Liberty Mutual, the Claims Administrator that the plan administrator has hired as an independent organization to administer Disability claims, by calling toll-free 1-800-530-5799.

The Liberty Mutual representative will ask you to provide the following information:

- Your name and Social Security number
- Your complete address and telephone number
- The name and telephone number of your physician or other medical care provider
- Your last day worked and first day absent from work because of your injury or illness
- Your employer's name

You will also be asked additional questions about yourself, your physician or other medical care provider, and your medical condition. You will be given a claim number and the toll-free telephone number for your claim team at Liberty Mutual.

You can also report your claim to Liberty Mutual by logging on to www.MyLibertyConnection.com. You will be asked to type in the following information:

- The Claimant Services ID (Peabody)
- Your personal identification number (your Social Security number without dashes or spaces)
- Your last name
- Your state of residence

As your claim continues, you should:

- Continue seeing your doctor on a regular basis and follow the recommended treatment plan
- Maintain contact as directed, requested or required with Liberty Mutual, your supervisor and any other internal or external representatives or groups directed by the Company to manage Disability cases or claims
- Encourage your doctor to provide Liberty Mutual with ongoing medical information as Liberty Mutual requests, so that your benefits will continue to be approved for as long as your Disability meets the plan's criteria
- Coordinate with Liberty Mutual and your supervisor to plan the date of your return to work

Checking the Status of Your Claim
Within three days of reporting your Disability to Liberty Mutual, you will be able to check the current status of your claim by contacting Liberty Mutual using either of the following methods:

- Call Liberty Mutual's toll-free number, 1-800-838-5290, Monday through Friday, from 8 a.m. to 5 p.m. Central Standard Time. If you call during these business hours, you will be able to discuss your claim with a claims representative.
- Visit www.MyLibertyConnection.com 24 hours a day, seven days a week.

When contacting Liberty Mutual, be sure to have your claim number or your Social Security number available.

If any portion of a claim is not paid, or if you do not understand or do not agree with the handling of a claim, most of your questions can be answered quickly and efficiently by contacting Liberty Mutual. For information on formal claim review procedures, see the next section, "Claims Review and Appeals."

Claims Review and Appeals

The procedures for making initial claims determinations and for appealing denied claims are explained in this section.

Initial Claim Determinations

Liberty Mutual will decide undisputed claims within 15 days of receipt of the claim. For disputed claims, Liberty Mutual will decide your claim within a reasonable time, not longer than 45 days after it is received. This time period may be extended by up to two additional 30-day periods for a maximum of 105 days after the claim is received for matters beyond the control of Liberty Mutual, including cases where a claim is incomplete. You will receive written notice of any extension, including the reasons for the extension and the date by which Liberty Mutual expects to render its decision.

The notice of extension also will explain the standards on which eligibility for a benefit is based, the unresolved issues that prevent a decision on the claim and the additional information needed to resolve those issues, and notice that you will be afforded at least 45 days within which to provide the specified information. Liberty Mutual may secure independent medical or other advice and require such other evidence as it deems necessary to decide your claim.

If Liberty Mutual denies your claim in whole or in part, you or your authorized representative will be furnished with a written notice that will provide the following information:

- The specific reason or reasons for the denial
- A reference to the specific plan provision on which the denial is based
- A description of any additional material or information necessary for you to complete your claim and an explanation of why such material or information is necessary
- Your right to submit written comments and have them considered
- Your right to review, on request and free of charge, relevant documents and other information
- Your right to file suit under ERISA if your claim is denied on appeal
- If an internal rule, guideline, protocol or other similar criterion was relied on in denying your claim:
  - A description of the rule, guideline, protocol or criterion relied on, or
  - A statement that a copy of the rule, guideline, protocol or criterion will be provided free of charge upon request.

Appealing Denied Claims

If your claim is denied in whole or in part, you or your authorized representative may appeal to Liberty Mutual for a review of the denied claim. Your appeal must be made in writing within 180 days of Liberty Mutual's initial notice that your claim has been denied, or you will lose the right to appeal the claim denial.

If you do not appeal on time, you will also lose your right to file suit in court, as you will have failed to exhaust your administrative appeal rights, which is generally a prerequisite to bringing suit.

Your written request for a review must be mailed to the following address:

Liberty Life Assurance Company of Boston
Group Benefit Disability Claims
P.O. Box 7210
London, Kentucky 40742-7210

Your written appeal should state the reasons that you believe your claim should not have been denied. It should include any additional facts and/or documents that you believe support your claim. You may also ask additional questions and make written comments, and you may review, on request and at no charge, documents and other information relevant to your appeal. Liberty Mutual will review all written comments you submit with your appeal.

Liberty Mutual will review and decide your appeal within a reasonable time but no longer than 45 days after it is submitted, and will notify you of its decision in writing. However, if additional information is required for Liberty Mutual to complete its review of your appeal, Liberty Mutual may, with prior written notice, extend the review period for up to an additional 45 days, for a maximum of 90 days.

The notice of extension will include the reasons for the extension and the date by which Liberty Mutual expects to render its decision. If the decision period is extended due to your failure to submit information necessary to decide the appeal, the specified period for deciding the appeal will not begin until the date that you respond to the request for additional information. The individual who decides your appeal will not be the same individual who decided your initial claim denial and will not be that individual's subordinate.

Liberty Mutual may secure independent medical or other advice and require such other evidence as it deems necessary to decide your appeal, except that any health care professional consulted in connection with your appeal will not be the same individual who was consulted in connection with your initial claim denial and will not be that individual's subordinate. The identity of any health care professional consulted in connection with your appeal will be provided.

If the decision on appeal affirms the initial denial of your claim, you will be furnished with a written notice that will provide the following information:

- The specific reason or reasons for the denial
- A reference to the specific plan provision on which the denial is based
- Your right to review, on request and free of charge, relevant documents and other information
- If an internal rule, guideline, protocol or other similar criterion was relied on in denying your claim:
  - A description of the rule, guideline, protocol or criterion relied on, or
  - A statement that a copy of the rule, guideline, protocol or criterion will be provided free of charge upon request
- Your right to file suit under ERISA

If you are dissatisfied with Liberty Mutual's ruling on your first appeal, you may appeal the decision by writing to the plan administrator at the following address:

Peabody Investments Corp.
Director, Benefits
Peabody Plaza
701 Market Street
St. Louis, Missouri 63101-1826

Your second-level appeal request must be submitted within 60 days from receipt of the first-level appeal decision.

In connection with a request for review, you have the right to:

- Submit written comments, documents, records and other information relating to the claim
- Receive, upon request and free of charge, reasonable access to and copies of, all documents, records and other information relevant to the claim, as determined by the plan administrator, in its sole discretion, in accordance with Department of Labor Regulations, Section 2560.503-1(m)(8)

The plan administrator's decision on your second-level appeal will be made independently of Liberty Mutual's initial determination. In the event that Liberty Mutual's decision was based in whole or in part on a medical judgment, the plan administrator will consult with a health care professional who has appropriate training and experience, and who neither was consulted in the first-level review nor is a subordinate of that person. If requested by you, the plan administrator will identify any health care professional who was consulted in the first-level appeal review, even if advice from that professional was not a basis for the first-level appeal decision.

The plan administrator will take into account all comments, documents, records and other information submitted by you relating to the claim, without regard to whether such information was submitted or considered in the first-level appeal determination. The plan administrator will generally deliver its decision within 45 days after receiving the request for a review.

In the event that the plan administrator determines that special circumstances require an extension of the review period, the plan administrator may extend the review period by up to an additional 45 days. If the decision period is extended due to your failure to submit information necessary to decide the appeal, the specified period for deciding the appeal will not begin until the date that you respond to the request for additional information.

In the event that a decision is not rendered by the end of the period described above, the appeal will be deemed to have been denied.

The plan administrator's decision will be in writing and will include the following information:

- The specific reason or reasons for the denial
- A reference to the specific plan provision on which the denial is based
- Your right to review, on request and free of charge, relevant documents and other information
- If an internal rule, guideline, protocol or other similar criterion was relied on in denying your claim:
  - A description of the rule, guideline, protocol or criterion relied on, or
  - A statement that a copy of the rule, guideline, protocol or criterion will be provided free of charge upon request
- Your right to file suit under ERISA

The decision of the plan administrator will be made in its complete and exclusive discretion, and will be binding and conclusive. The plan administrator has developed administrative processes and safeguards to ensure that all decisions are made in accordance with the plan and other governing documents, and that the provisions of the plan are applied consistently with respect to similarly situated claimants.

After you receive written notice of the denial of your second-level appeal, which will be a final decision (or after a second-level appeal is deemed to be denied), you may bring a civil action under Section 502(a) of ERISA, as long as the civil action is brought within two years from the date of the plan administrator's decision.

Your ERISA Rights

As a participant in this plan, you are entitled to certain rights and protections under the Employee Retirement Income Security Act of 1974 (ERISA). ERISA provides that all plan participants shall be entitled to:

- **Receive Information About Your Plan and Benefits.** Your right to receive information includes the right to:
  - Examine, without charge, at the plan administrator's office and at other specified locations, such as work sites, all documents governing the plan, including insurance contracts, and a copy of the latest annual report (Form 5500 Series) filed by the plan with the U.S. Department of Labor and available at the Public Disclosure Room of the Employee Benefits Security Administration.

- Obtain, upon written request to the plan administrator, copies of documents governing the operation of the plan, including insurance contracts, and copies of the latest annual report (Form 5500 Series) and updated summary plan descriptions. The plan administrator may make a reasonable charge for the copies.
- Receive a summary of the plan's annual financial report. The plan administrator is required by law to furnish each participant with a copy of this summary annual report.

▷ **Prudent Actions by Plan Fiduciaries.** In addition to creating rights for plan participants, ERISA imposes duties upon the people who are responsible for the operation of the Employee benefit plan.

- The people who operate your plan, called "fiduciaries" of the plan, have a duty to do so prudently and in the interest of you and other plan participants and beneficiaries.
- No one, including your employer or any other person, may fire you or otherwise discriminate against you in any way to prevent you from obtaining a welfare benefit or exercising your rights under ERISA.

▷ **Enforce Your Rights.** If your claim for a welfare benefit is denied or ignored, in whole or in part, you have a right to know why this was done, to obtain copies of documents relating to the decision without charge, and to appeal any denial, all within certain time schedules.

- Under ERISA, there are steps you can take to enforce the above rights. For instance, if you request materials from the plan and do not receive them within 30 days, you may file suit in a federal court. In such a case, the court may require the plan administrator to provide the materials and pay you up to $110 a day until you receive the materials, unless the materials were not sent because of reasons beyond the control of the administrator.
- If you have a claim for benefits that is denied or ignored, in whole or in part, you may file suit in federal court. If it should happen that plan fiduciaries misuse the plan's money or if you are discriminated against for asserting your rights, you may seek assistance from the U.S. Department of Labor or you may file suit in a federal court. The court will decide who should pay court costs and legal fees. If you are successful, the court may order the person you have sued to pay these costs and fees. If you lose, the court may order you to pay these costs and fees, for example, if it finds your claim is frivolous.

Assistance With Questions

If you have any questions about your plan, you should contact the plan administrator. If you have any questions about this statement or your rights under ERISA, or if you need assistance in obtaining documents from the plan administrator, you should contact the nearest office of the Employee Benefits Security Administration, U.S. Department of Labor, listed in your telephone directory, or the Division of Technical Assistance and Inquiries, Employee Benefits Security Administration, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210. You may also obtain certain publications about your rights and responsibilities under ERISA by visiting the Employee Benefits Security Administration's website at www.dol.gov/ebsa.

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Plan Administration Information

Plan Name
Peabody Investments Corp. and Affiliates Welfare Benefit Plan

Type of Plan
Welfare benefit plan providing Disability benefits

Employer Identification Number
The employer identification number assigned to Peabody Investments Corp. by the Internal Revenue Service is 20-0480084.

Plan Number
501

Plan Year
January 1 to December 31

Plan Sponsor
Peabody Investments Corp.

You may direct correspondence to:

Peabody Investments Corp.
Director, Benefits
Peabody Plaza
701 Market Street
St. Louis, Missouri 63101-1826

Plan Administrator
Peabody Investments Corp.
Peabody Plaza
701 Market Street
St. Louis, Missouri 63101-1826

The plan administrator has exclusive discretion to interpret the provisions of the plan. Any interpretations, including interpretations of ambiguities and inconsistencies in the plan language, are binding and conclusive on all parties.

Claims Administrator
Liberty Life Assurance Company of Boston
Group Benefit Disability Claims
P.O. Box 7210
London, Kentucky 40742-7210

Agent for Service of Legal Process
The agent for service of legal process varies by state. To determine the appropriate agent for your location, you may contact:

Peabody Investments Corp.
Peabody Plaza
701 Market Street
St. Louis, Missouri 63101-1826
314-342-3400

Funding and Payments
The plan is funded out of the general assets of the plan sponsor. The plan is self-insured and is not guaranteed under an insurance policy or contract. The Company issues STD benefit payments, whereas the Claims Administrator issues LTD benefit payments.

Amending or Terminating the Plan
The plan is adopted with the intention that it will be continued for the benefit of present and future Employees of the Company. However, the Company reserves the right to terminate the plan, change required contributions or modify this plan, in whole or in part, at any time and for any reason, including making changes in any and all of the benefits provided, without advance notice.

This means that an Employee cannot have a lifetime right to any plan benefit or to the continuation of this plan simply because this plan or a specific benefit is in existence at any time during the Employee's employment. This plan will comply with all requirements of the law and will be changed, if necessary, in order to meet any such requirements.

Definitions of Terms

Any Occupation — Employment that an Employee is or may reasonably become qualified for on the basis of his or her training, education, experience, age, and physical and mental capacity.

Base Pay — For an Employee paid on a salaried basis, the amount earned each year in base salary according to the Company's records, excluding any overtime pay, bonuses, special allowances or salary for foreign service, awards from any special compensation plan or similar plans, payments under any other Employee benefit plans and any other Company-provided compensation.

For an Employee paid on an hourly basis, Base Pay is determined by multiplying the Employee's hourly base rate by 2,080. An Employee's base rate excludes any overtime pay, bonuses, special allowances or salary for foreign service, awards from any special compensation plan or similar plans, payments under any other Employee benefit plans and any other Company-provided compensation.

Claims Administrator — An organization retained by the Company to perform the functions of approving or denying claims. Liberty Life Assurance Company of Boston (Liberty Mutual) is the independent organization hired for this role.

Company — Peabody Investments Corp. and its designated subsidiaries or affiliates.

Disabled or Disability — For purposes of the STD plan, "Disabled" or "Disability" means that, as a result of injury or illness, an Employee is unable to perform the material and substantial duties of his or her Own Job. An Employee is not considered to have a Disability if the illness or injury only prevents the Employee from commuting to and from work.

For purposes of the LTD plan, an Employee is considered to have a Disability during the first 18 months of Long-Term Disability if: (a) the Employee is mentally unable to perform the essential duties of his or her Own Occupation for any employer because of a physical or mental impairment, or (b) a Disability prevents the Employee from earning 60% or more of his or her pre-Disability Base Pay.

After the first 18 months of Long-Term Disability, the Employee's condition will be reevaluated, and the Employee still will be considered Disabled if: (a) the Employee is unable to perform the essential duties of Any Occupation for which he or she is qualified by training, education or experience, or for which the Employee may reasonably become qualified, or (b) the Employee is employed by any employer, but a Disability prevents the Employee from earning 60% or more of his or her pre-Disability Base Pay.

Employee — A full-time Employee below Director level of certain Peabody Investments Corp. designated affiliates and subsidiaries, working 35 or more hours per week in Wyoming. The definition of Employee includes any Employee while on vacation.

Part-time, contractual, temporary or seasonal Employees; Employees of another affiliate on temporary assignment to the Wyoming region; Employees who are covered by a collective bargaining agreement that does not provide for their participation in the plan; and nonresident aliens who receive no U.S.-source income from the Company, as defined by the Internal Revenue Code, are not eligible for coverage under this plan. In addition, Employees who are receiving severance or who are on an unpaid leave of absence (except for certain unpaid leave under the Family and Medical Leave Act) are not eligible for coverage under this plan.

Legally Qualified Physician — A physician who is licensed and is practicing within the scope of his or her license, is not related to the claimant Employee by blood or marriage, and is not living in the Employee's household.

Long-Term Disability — For purposes of the LTD plan, an Employee is considered to have a Disability during the first 18 months of Long-Term Disability if: (a) the Employee is mentally unable to perform the essential duties of his or her Own Occupation for any employer because of a physical or mental impairment, or (b) a Disability prevents the Employee from earning 60% or more of his or her pre-Disability Base Pay.

After the first 18 months of Long-Term Disability, the Employee's condition will be reevaluated, and the Employee still will be considered Disabled if: (a) the Employee is unable to perform the essential duties of Any Occupation for which he or she is qualified by training, education or experience, or for which the Employee may reasonably become qualified, or (b) the Employee is employed by any employer, but a Disability prevents the Employee from earning 60% or more of his or her pre-Disability Base Pay.

Own Job — The job the claimant Employee was performing when his or her Disability or partial Disability began.

Own Occupation — The occupation the claimant Employee was performing when his or her Long-Term Disability began. For the purposes of determining "Disability" under this plan, Liberty Mutual will consider the Employee's Own Occupation as it is normally performed in the national economy.

Reasonable and Appropriate Medical Treatment — A course or plan of treatment that a Legally Qualified Physician performs to treat a disabling condition. The treatment must be expected to minimize or eliminate the disabling condition to the extent possible and must be approved by Liberty Mutual, the Claims Administrator.

Rehabilitative Program — Employment or a Vocational Rehabilitation Service that prepares a Totally Disabled person to resume work and is approved in writing by Liberty Mutual, in its sole discretion, as appropriate for the Employee. The Rehabilitative Program may include any of the following:

- A return to any employment for which the Employee is qualified on either a part-time or full-time basis, with or without reasonable accommodation
- Vocational or placement counseling
- Skills training and placement assistance
- Vocational training

Short-Term Disability — For purposes of the STD plan, "Disabled" or "Disability" means that, as a result of injury or illness, an Employee is unable to perform the material and substantial duties of his or her Own Job. An Employee is not considered to have a Disability if the illness or injury only prevents the Employee from commuting to and from work.

Totally Disabled — An Employee is considered Totally Disabled if Liberty Mutual, the Claims Administrator, has determined, based on information provided by a Legally Qualified Physician, that the Employee is unable to perform the requirements of his or her Own Job.

Transitional Return to Work — As determined by the Company, a temporary accommodation (usually not to exceed eight weeks) that is made to assist an Employee's return to work with the Company after the Employee has experienced a Short-Term Disability. It is a temporary modification of any job, task, function or combination of tasks and functions that the Employee may perform safely, with work restrictions, without risk of re-injury. In most cases, transitional work is performed on site so the Employee can interact with co-workers and supervisors while gradually working up to the full duties of his or her position.

Vocational Rehabilitation Services — Services that identify the necessary training and therapy that can help an Employee return to work to his or her former occupation, or that can lead to a new occupation that is better suited to the Employee's condition. These services include, but are not limited to, the following:

- Transferable skills analysis — an assessment and counseling to help determine how the Employee's skills and abilities can be applied to a new or modified job
- Labor market survey — studies to find jobs available within the Employee's demographic region that would utilize his or her skills and abilities
- Retraining programs — programs to facilitate return to the Employee's previous job, or to train the Employee for a new job
- Job modifications/accommodations — changes in the Employee's job or accommodations to help the Employee perform his or her previous job or a similar vocation, as required under the Americans with Disabilities Act
- Training in job-seeking skills — special training to identify abilities, set goals, develop resumes, polish interviewing techniques and provide other career-search assistance

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